

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

DANIEL KENNEDY d/b/a KENNEDY LAW,
LLC, individually and on behalf of a class of
similarly situated individuals,

Plaintiff,

v.

FLURRY LIVE, INC.,

Defendant.

Case No.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441 and 1446, Defendant, Flurry Live, Inc. by and through its attorneys, hereby submits this Notice of Removal for the United States District Court for the Western District of Missouri, of the above-captioned action, pending as Case No. 1716-CV12810 in the 16th Judicial Circuit Court of Jackson County, Missouri. In support of this petition and as grounds for removal, Defendant states as follows:

1. On June 19, 2017, Plaintiff, Daniel Kennedy (“Plaintiff”) filed this action in the 16th Judicial Circuit Court of Jackson County, Missouri, styled, *Daniel Kennedy d/b/a Kennedy Law, LLC, individually and on behalf of all others similarly situated v. Flurry Live, Inc.*, Case No. 1716-CV12810. The 16th Judicial Circuit Court of Jackson County, Missouri is within the judicial district of the United States District Court for the Western District of Missouri. No proceedings have occurred in the 16th Judicial Circuit Court of Jackson County as of the date of this removal.

2. True and correct copies of the Summons and Complaint, which constitute “all process, pleadings, and orders served upon” Defendant in this action are attached hereto as Exhibit 1. 28 U.S.C § 1446(a).

3. A copy of this Notice of Removal is being filed with the Clerk of the 16th Judicial Circuit Court of Jackson County and is being served on counsel of record pursuant to 28 U.S.C. § 1446(d).

4. Plaintiff served the Summons and Complaint on Defendant's agent for process on June 30, 2017. Ex. 1. This Notice of Removal is thus timely filed within 30 days of June 30, 2017. 28 U.S.C. § 1446(b)(1).

5. The Class Action Complaint alleges one cause of action based on the Defendant's alleged sending of an unsolicited text message in violation of the Telephone Consumer Protection Act, 47 U.S.C. Section 227 ("TCPA"). Ex. 1 at p. 1 & ¶¶ 14-21. Plaintiff purports to bring this claim on behalf of a nationwide class of persons. *Id.* at ¶ 44.

6. The case is a civil action of which the United States District Court for the Western District of Missouri has original jurisdiction under the provisions of 28 U.S.C. § 1331 because Plaintiff has alleged a cause of action under the TCPA. *See Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 372 (2012) (holding that federal question jurisdiction exists under 28 U.S.C. § 1331 for private claims for damages brought under the TCPA).

7. Removal to this federal court is authorized by 28 U.S.C. § 1441 because a claim pursuant to the TCPA arises under federal law. *Id.* at 386-87; *see also St. Louis Heart Center, Inc. v. Vein Centers for Excellence, Inc.*, 860 F. Supp. 2d 920, 923 (E.D. Mo. 2012) ("Claims under the TCPA arise under federal law.").

8. For the foregoing reasons, this action is properly removed to this Court pursuant to 28 U.S.C. § 1441.

Dated: July 26, 2017

Respectfully submitted,

By: /s/ Jacqueline Sexton

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Attorneys for Defendant Flurry Live, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2017, I electronically filed the foregoing Notice of Removal with the Clerk of the Court using the CM/ECF system. I will send notification of such filing to the following by depositing in the United States Mail, postage prepaid:

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